

AMENDED IN ASSEMBLY JUNE 15, 2006

AMENDED IN SENATE MAY 3, 2006

AMENDED IN SENATE MARCH 29, 2006

**SENATE BILL**

**No. 1830**

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**Introduced by Senator Margett**

February 24, 2006

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An act to amend Section 1543 of the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1830, as amended, Margett. Corrections: inmate medical records.

Existing law charges the Department of Corrections and Rehabilitation with the care and custody of persons sentenced to state prison. Existing law sets forth the circumstances under which inmate medical records may be disclosed to law enforcement agencies.

This bill would provide that inmate medical records shall be made available, upon request, to a law enforcement agency that is investigating or prosecuting a felony committed by or against a person ~~under the jurisdiction~~ *within the physical custody* of the department or other law enforcement agency.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1543 of the Penal Code is amended to  
2 read:

1 1543. (a) Records of the identity, diagnosis, prognosis, or  
2 treatment of any patient maintained by a health care facility that  
3 are not privileged records required to be secured by the special  
4 master procedure in Section 1524, or records required by law to  
5 be confidential, shall only be disclosed to law enforcement  
6 agencies pursuant to this section, as follows:

7 (1) In accordance with the prior written consent of the patient;  
8 or

9 (2) If authorized by an appropriate order of a court of  
10 competent jurisdiction in the county where the records are  
11 located, granted after application showing good cause therefor. In  
12 assessing good cause, the court shall do both of the following:

13 (A) Weigh the public interest and the need for disclosure  
14 against the injury to the patient, to the physician-patient  
15 relationship, and to the treatment services.

16 (B) Determine that there is a reasonable likelihood that the  
17 records in question will disclose material information or evidence  
18 of substantial value in connection with the investigation or  
19 prosecution; ~~or~~.

20 (3) By a search warrant obtained pursuant to Section 1524.

21 (b) The prohibitions of this section continue to apply to  
22 records concerning any individual who has been a patient,  
23 irrespective of whether or when he or she ceases to be a patient.

24 (c) Except where an extraordinary order under Section 1544 is  
25 granted or a search warrant is obtained pursuant to Section 1524,  
26 any health care facility whose records are sought under this  
27 chapter shall be notified of the application and afforded an  
28 opportunity to appear and be heard thereon.

29 (d) Both disclosure and dissemination of any information from  
30 the records shall be limited under the terms of the order to assure  
31 that no information will be unnecessarily disclosed and that  
32 dissemination will be no wider than necessary.

33 This chapter shall not apply to investigations of fraud in the  
34 provision or receipt of Medi-Cal benefits, investigations of  
35 insurance fraud performed by the Department of Insurance or the  
36 California Highway Patrol, investigations of workers'  
37 compensation insurance fraud performed by the Department of  
38 Corrections and Rehabilitation and conducted by peace officers  
39 specified in paragraph (2) of subdivision (d) of Section 830.2,  
40 and investigations and research regarding occupational health

1 and safety performed by or under agreement with the Department  
2 of Industrial Relations. Access to medical records in these  
3 investigations shall be governed by all laws in effect at the time  
4 access is sought.

5 (e) Nothing in this chapter shall prohibit disclosure by a  
6 medical facility or medical provider of information contained in  
7 medical records where disclosure to specific agencies is  
8 mandated by statutes or regulations.

9 ~~(f) This chapter shall not be construed to authorize disclosure~~  
10 ~~of privileged records to law enforcement agencies by the~~  
11 ~~procedure set forth in this chapter, where the privileged records~~  
12 ~~are required to be secured by the special master procedure set~~  
13 ~~forth in subdivision (c) of Section 1524 or required by law to be~~  
14 ~~confidential.~~

15 ~~(g)~~ Records that are maintained by the Department of  
16 Corrections and Rehabilitation that pertain to an inmate, ward, or  
17 parolee who is either a victim or a suspect of a felony committed  
18 by or against a person within the physical custody of the  
19 department or other law enforcement agency shall be ~~made~~  
20 ~~available~~ *disclosed*, upon request, to a law enforcement agency  
21 that is investigating or prosecuting the felony. *For the purposes*  
22 *of this paragraph, "law enforcement agency" means the Attorney*  
23 *General, the District Attorney of every county, and every agency*  
24 *of every city, county, city and county, and the state that is*  
25 *expressly authorized by statute to investigate or prosecute law*  
26 *violators.*

27 ~~(g)~~ *This chapter shall not be construed to authorize disclosure*  
28 *of privileged records to law enforcement agencies by the*  
29 *procedure set forth in this chapter, where the privileged records*  
30 *are required to be secured by the special master procedure set*  
31 *forth in subdivision (c) of Section 1524 or required by law to be*  
32 *confidential.*